

REMARKS

This is meant to be a complete response to the Office Action mailed February 24, 2004.

Acknowledgment of Withdrawal of the 35 U.S.C. Section 103 Rejection

The Applicant gratefully acknowledges the Examiner's withdrawal of the 35 U.S.C. 103(a) rejection of Claims 1 and 38-41.

First Nonstatutory Double Patenting Rejection

The Applicant appreciates the Examiner's acknowledgment that the prior nonstatutory double patenting rejection of Claims 1, and 38-41 over Claims 1 and 2 of U.S. Patent No. 5,666,784 and Claims 35-46, 62-67, 83-88 and 97-104 of U.S. Patent No. 6,382,418 has been overcome with the filing of the terminal disclaimer of 17 November 2003.

Second Nonstatutory Double Patenting Rejection

In the Office Action mailed February 24, 2004, the Examiner rejected Applicant's claims 1 and 38-41 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of US Patent No. 5,921,062; claims 129 and 156 of US Patent No. 6,357,207; claims 51 and 82 of US Patent No. 6,460,316; claims 25, 46, 92, and 113 of US Patent

No. 6,684,605 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

In support of the rejection, the Examiner stated: The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: The claims in the aforementioned patents are drawn to methods of using a packaging system for a floral grouping or methods of providing a modified atmosphere package for a floral grouping. The steps in these methods involve providing a package made from material having modified atmosphere characteristics, which further comprises various agents, such as disinfectants, desiccants, anti-fogging agents, and combinations thereof.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the applications that matured into the aforementioned patents. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP 804.

In response to the rejection, Applicant has filed a Terminal Disclaimer herewith which complies with each and every provision of 37 CFR 1.321 and 37 CFR 1.130(b) and which disclaims the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent Nos. 5,921,062; 6,357,207; 6,460,316 and 6,684,605.

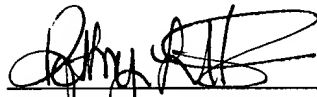
Therefore, Applicant respectfully submits that the nonstatutory double-patenting rejection of claims 1 and 38-41 has been obviated by the filing of the Terminal Disclaimer and requests reconsideration and withdrawal of the rejection of such claims.

CONCLUSION

The foregoing is meant to be a complete response to the Office Action mailed February 24, 2004. Applicant respectfully submits that the rejection of pending claims 1 and 38-41 has been obviated by the filing of the Terminal Disclaimer herewith, and that such claims are in a condition for allowance, and requests passage to issuance thereof.

Should the Examiner have any questions or comments concerning the before-mentioned amendments to the application or any other matter, Applicant's agent will welcome the opportunity to discuss same with the Examiner.

Respectfully submitted,



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